

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 929 of 1996

Hon'ble MR.JUSTICE Y.B.BHATT

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

PRUTHVIRAJ VAGHJI CHAUDHARI

Versus

GANPATBHAI MOHANBHAI JOSHI

Appearance:

MR RC JANI for Petitioner
MR SANDIP C. SHAH for respondent no.6
SERVED for Respondent Nos. 1 to 5

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 03/04/97

ORAL JUDGEMENT

1. Heard the learned counsel for the applicant and learned counsel for the respondent no.6. Respondent nos.1 to 5 are absent though served.

2. The present revision has been filed under section 115, CPC, by a person who is, according to the original claimants, the same person who is shown as opponent no.3/1 in the Motor Accident Claim Petition No.98/86.

3. The short controversy arises from the following facts:

3.1 The Tribunal by its order below Exh.57 permitted a change in the cause title of the claim petition wherein opponent no.3/1 is shown as "Pruthviraj Veljibhai Chaudhari, residing at Pilaji Ganj Road, Mehsana, Dist. Mehsana".

3.2 It appears that the claimants in the claim petition were unable to serve the person named as opponent No.3/1 in the petition, and therefore by orders of the Tribunal sought to serve the said opponent by substituted service.

3.3 Accordingly notice of the filing of the said petition inter alia against the said opponent no.3/1 was published in the Gujarat Government Gazette (supplement to the Central Gazette and Central Section) dated 28th December 1995, which is at Exh.66 in the petition.

4. On a plain reading of the name and description of the opponent no.3/1, as printed in the said Gazette reads as under:

"Pruthviraj Valjibhai @
Vaghjibhai Chaudhari,
residing at Jayshree Market,
Mehsana."

From a plain reading of the publication in the said gazette, it is obvious that the name and address of the opponent no.3/1, as printed in the gazette, does not tally with, and is separate and distinct from the name and address of the opponent no.3/1 as shown in the cause title of the claim petition (as the same stood pursuant to the order below Exh.57).

4. It is, therefore, apparent that the contention of the present petitioner i.e. the applicant who presented Exh.73 before the Tribunal, is not entirely without substance. The actual prayer made in the said application may be on the basis of imperfect advice or guidance. In any case, what is material is, if the Tribunal ultimately passes an award against opponent no.3/1, would that award be against the opponent no.3/1 as shown in the cause title of the claim petition or against the person shown as opponent no.3/1 in the cause title printed in the gazette?.

5. It is, therefore, apparent that the Tribunal is required to investigate into the facts by applying its mind, to ascertain as to how, under what circumstances, under which orders of the Tribunal and why, the publication in the gazette differs materially from the name, description and address of the opponent no.3/1 as shown in the cause title of the petition.

6. It is also desirable that the Tribunal, on an appropriate application being made, redirects notice of the petition to be served on the proper person i.e. opponent no.3/1 as shown in the cause title of the claim petition, and/or passes further orders for re-publication of the notice of the petition in the gazette, so that the name, description and address of the opponent no.3/1 does not differ as between the cause title of the petition and the cause title of the publication in the gazette. It is clarified that any further orders that the Tribunal may pass with a view to remove this discrepancy, shall be passed only after hearing the present petitioner.

7. In the light of the above observations and directions, the present petitioner does not press this revision on technical grounds. This revision is accordingly disposed of. Rule is made absolute with no order as to costs.
